



UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PAUL WALTER BAIER, MARTIN HAARDT,
and MARTIN WECKERLE

Application 09/889,518

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on July 8, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

On September 27 2004, applicants filed a timely Reply Brief.

In accordance with the revision effective September 13, 2004, Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

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Further, upon review of the Examiner's Answer mailed on July 26, 2004, it appears that no appeal conference has been conducted. According to the Manual of Patent Examining Procedure (MPEP) § 1208 (8th ed., August 2001), when an appeal conference has been held, the appeal conference participants must identify themselves as the conferees, along with placing their initials next to their name. This procedure has not been completely followed, thus raising the question of whether or not an appeal conference was held.

Accordingly, it is

ORDERED that the application is returned to the Examiner for consideration and proper response to the Reply Brief, for the Examiner to take corrective action regarding the appeal conference, and for such further action as may be appropriate.

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